



**DEPARTMENT OF EDUCATION**

**34 CFR Parts 662 and 663**

**[Docket ID ED-2023-OPE-0009]**

**RIN 1840-AD90**

**Fulbright-Hays Doctoral Dissertation Research Abroad  
Fellowship Program and Faculty Research Abroad Fellowship  
Program**

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations that govern the Fulbright-Hays Doctoral Dissertation Research Abroad (DDRA) Fellowship Program and the Faculty Research Abroad (FRA) Fellowship Program. The proposed changes would revise language proficiency qualifications for DDRA and FRA applicants and clarify the Secretary's discretionary use of eligibility criteria.

**DATES:** We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Comments must be submitted via the Federal eRulemaking Portal at Regulations.gov. However, if you require an accommodation or cannot otherwise submit your comments via Regulations.gov, please contact the program contact person listed under FOR FURTHER INFORMATION

CONTACT. The Department will not accept comments submitted by fax or by email or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comments only once. Additionally, please include the Docket ID at the top of your comments.

The Department strongly encourages you to submit any comments or attachments in Microsoft Word format. If you must submit a comment in Adobe Portable Document Format (PDF), the Department strongly encourages you to convert the PDF to "print-to-PDF" format, or to use some other commonly used searchable text format. Please do not submit the PDF in a scanned format. Using a print-to-PDF format allows the Department to electronically search and copy certain portions of your submissions to assist in the rulemaking process.

Federal eRulemaking Portal: Please go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "FAQ."

Note: The Department's policy is generally to make comments received from members of the public available for public viewing on the Federal eRulemaking Portal at <http://www.regulations.gov>. Therefore, commenters should

include in their comments only information that they wish to make publicly available. Commenters should not include in their comments any information that identifies other individuals or that permits readers to identify other individuals. The Department reserves the right to redact at any time any information that identifies other individuals or that permits readers to identify other individuals.

**FOR FURTHER INFORMATION CONTACT:** Dr. Pamela J. Maimer, U.S. Department of Education, 400 Maryland Ave., SW, room 258-24, Washington, DC 20202. Telephone: (202) 453-6891. Email: [pamela.maimer@ed.gov](mailto:pamela.maimer@ed.gov).

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

**SUPPLEMENTARY INFORMATION:**

Invitation to Comment: We invite you to submit comments regarding the proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to clearly identify the specific section of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We also invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 (explained further below) and their overall requirement of

reducing regulatory burden that might result from the proposed regulations. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities. The Department also welcomes comments on any alternative approaches to the subjects addressed in the proposed regulations.

During and after the comment period, you may inspect public comments about the proposed regulations by accessing Regulations.gov.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record

On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed regulations. To schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Background

The DDRA Fellowship Program, Assistance Listing Number 84.022A, provides opportunities for doctoral students to engage in dissertation research abroad in modern foreign languages and area studies. The program is designed to contribute to the development and improvement of the study

of modern foreign languages and area studies in the United States, and to increase scholars' knowledge of the culture of the people in the countries or regions of research. The program provides fellowships to doctoral candidates who are planning a teaching career in the United States upon completion of their programs and who possess sufficient foreign language skills in the country or countries of research to carry out the dissertation research project. See 34 CFR part 662; 22 U.S.C. 2452(b)(6).

The FRA Fellowship Program, Assistance Listing Number 84.019A, provides opportunities for faculty members teaching modern foreign languages or area studies at U.S. institutions of higher education to engage in research abroad in those languages or areas studied. The program is designed to contribute to the faculty members' foreign language skills and to increase knowledge of the culture of the people in the countries or regions of research. See 34 CFR part 663; 22 U.S.C. 2452(b)(6).

The regulations for both programs were last revised in 1998. Currently, under both the DDRA regulations (§ 662.21(c)(3)) and the FRA regulations (§ 663.21(c)(3)), the Secretary awards points for an applicant's language proficiency in the country or countries of research. Under the current regulations, however, the Secretary does not take into consideration the language proficiency of those who are seeking to conduct research in their native

languages through §§662.21(c)(3) and 663.21(c)(3). As a consequence, native speakers applying to the DDRA and FRA programs are not eligible to receive qualitative points for language proficiency based on Sections 662.21(c)(3) and 663.21(c)(3) if they propose to conduct research in a host country using their native language.

We propose to revise the DDRA and FRA regulations to provide eligibility for points based on §§662.21(c)(3) and 663.21(c)(3) for applicants conducting research projects in any language in which they have proficiency, other than English, to receive up to the full amount of points available for this criterion based on their individual level of proficiency. While the Department had a reasonable basis for the prior version of this criterion that was grounded in the purposes of the DDRA and FRA programs, the Department's updated consideration of these programs as they have evolved over time has led to the conclusion that this change will better promote fairness in the application review process for native speakers of languages other than English.

The proposed revisions would be consistent with the statutory framework for the DDRA and FRA programs. Allowing native speakers to receive points based on §§662.21(c)(3) and 663.21(c)(3) for conducting research projects in any language in which they have proficiency, other than English, would support the statutory goal of

"promoting modern foreign language training and area studies in United States schools[.]" 22 U.S.C. 2452(b)(6).

The proposed changes to these regulations would also bring the DDRA and FRA programs into better alignment with other comparable foreign language and international area studies grants, which do not contain an exception or exclusion for native language skills other than English. The Fulbright U.S. Student and U.S. Scholar Programs managed by the Department of State, for example, require that an applicant's language skills match the proposed host country's requirements, and that the applicant demonstrate language proficiency commensurate with the nature of the proposed project, without regard to the applicant's native language.

We also propose to revise the DDRA and FRA regulations to adopt a new selection criterion within §§ 662.21(c) and 663.21(c) that will consider the steps taken by the applicant to improve proficiency in the language of study and ensure adequate preparation for the proposed research project. The Department believes this criterion will support the DDRA program's goal of promoting modern foreign language training "in United States schools, colleges, and universities" by allowing the applicant to demonstrate the steps taken to improve their language in a domestic academic setting.

Finally, we propose to revise the DDRA and FRA regulations to give the Secretary flexibility under §§ 662.21(c) and 663.21(c) to choose among the regulated selection criteria that will be considered in each application cycle when assessing applicant qualifications. The Department believes this change will increase flexibility when implementing these programs to account for changing Departmental priorities for international and foreign language education, while still allowing the Department to select among the most qualified applicants for funding.

#### Summary of Proposed Regulations

The proposed changes would--

- Amend § 662.21(c) of the DDRA regulations to allow awarding of full points under criterion (c)(3) to applicants conducting research projects in any language in which they have proficiency, other than English. The proposed change will better promote fairness in the application review process for native speakers of languages other than English.

The proposed regulations would also more fully account for proficiency by considering the steps an applicant has taken to improve their language proficiency in support of the proposed research project. The Department believes this criterion will support the DDRA program's goal of promoting training "in United States schools, colleges, and



universities” by allowing the applicant to demonstrate the steps taken to improve their language proficiency in a domestic academic setting.

Finally, the proposed regulations would give the Secretary discretion to determine which factors will be considered in reviewing applicant qualifications. The proposed change would increase flexibility to implement the program within statutory requirements and ensure each year’s program implementation conforms with Departmental priorities for international and foreign language education set under § 662.21(d). This proposed change would serve to bring DDRA into alignment with other Departmental programs that allow the Secretary to select among the regulated selection criteria when determining which criteria will be emphasized in a particular competition year to account for changing Departmental priorities while still allowing the Department to select among the most qualified applicants. As proposed, the Secretary would be able to eliminate or assign no value to a selection criterion in a particular competition year without undergoing rulemaking if it was determined that the particular criterion would not further that year’s program priorities

- Amend the FRA regulation at § 663.21(c) to allow awarding of full points for this criterion to applicants conducting research projects in any language in which they have proficiency, other than English. The proposed change

will better promote fairness in the application review process for native speakers of languages other than English. The proposed regulations would also take into consideration the steps an applicant has taken to improve their language proficiency in support of the proposed research project.

Finally, the proposed regulations would give the Secretary discretion to determine the value given each regulatory factor when reviewing applicant qualifications. The proposed change would increase flexibility to implement the program within each year's Departmental priorities for international and foreign language education set under § 663.21(d). This change would bring FRA into alignment with other Departmental programs (for example, the Department's general selection criteria under 34 CFR § 75.210) that allow the Secretary to select among the regulated selection criteria when determining which criteria will be emphasized in a particular competition year. This proposed change would allow the Secretary to eliminate assign no value to a selection criterion for a particular competition year without undergoing rulemaking if it was determined that the particular criterion would not further program priorities announced under existing § 663.21(d).

DDRA -- Section 662.21 What criteria does the Secretary use to evaluate an application for a fellowship?

Statute: 22 U.S.C. 2452(b)(6) authorizes the President to

provide for the promotion of modern foreign language training in U.S. schools, colleges, and universities by supporting visits and study in foreign countries by teachers and prospective teachers to improve their language skills and their knowledge of the culture of the people of those countries.

Current Regulation: Section 662.21(c)(3) does not award language proficiency points for DDRA applicants conducting research in English or in the applicant's native language. Section 662.21(c) does not currently provide for consideration of the steps an applicant has taken to improve their language proficiency in support of the proposed research project.

Proposed Regulation: We propose to amend § 662.21(c)(3) to allow awarding full points for this criterion to applicants conducting research projects in any language in which they have proficiency, other than English.

Additionally, we propose to add as new paragraph (c)(4): a selection criterion that would take into consideration the steps an applicant has taken to improve language proficiency in support of the proposed research project.

Finally, we propose revising the introductory language of § 662.21(c) to allow consideration of "one or more" of the listed criteria. This proposed revision would provide the Secretary discretion when reviewing the qualifications of

applicants to align regulated selection criteria with Departmental priorities for a particular competition year.

Reasons: The proposed regulations would bring DDRA into line with other comparable foreign language and international area studies grant programs, which generally do not contain an exception or exclusion for applicants who pursue a course of study in their native language. Additionally, proposed changes to the regulation are designed to improve equitable access for applicants demonstrating doctoral level proficiency in the language of the country in which they seek to conduct research.

The Department has determined that the current regulation overemphasizes the method of language acquisition over language proficiency. The current regulations also have the consequence of making individuals whose native language matches the host country of research ineligible for language proficiency points under § 662.21(c) (3). As the ultimate goal of these programs is "promoting modern foreign language training and area training[,]" the Department has determined that the DDRA program is better served by selecting linguistically proficient candidates for doctoral level research, regardless of their method of acquisition of language proficiency.

The proposed addition to § 662.21(c) of a new selection criterion would also take into consideration the

steps an applicant has taken to improve their language proficiency in support of the proposed research project to more fully account for proficiency obtained through an applicant's academic efforts and ensure adequate preparation for the proposed research project. The Department believes this proposed new criterion will support the DDRA program's goal of promoting training "in United States schools, colleges, and universities" by allowing the applicant to demonstrate the steps taken to improve their language proficiency in a domestic academic setting.

Finally, the proposal providing the Secretary discretion to choose among the regulated selection criteria that will be considered in each application cycle when reviewing applicant qualifications is expected to increase flexibility when implementing the program to account for changing Departmental priorities for international and foreign language education. This proposal is generally consistent with the Secretary's authority for all direct grant programs under 34 CFR § 75.201 where "in the application package or a notice published in the Federal Register, the Secretary informs applicants of [...] the selection criteria chosen[.]" This change would bring DDRA into alignment with other Departmental programs that allow the Secretary to select among the regulated selection

criteria when determining which criteria will be used in a particular competition year.

FRA -- Section 663.21 What criteria does the Secretary use to evaluate an application for a fellowship?

Statute: 22 U.S.C. 2452(b)(6) authorizes the President to provide for the promotion of modern foreign language training in U.S. schools, colleges, and universities by supporting visits and study in foreign countries by teachers and prospective teachers to improve their language skills and their knowledge of the culture of the people of those countries.

Current Regulation: Section 663.21(c)(3) does not award language proficiency points for applicants conducting research in English or in the applicant's native language. Section 663.21(c) does not provide for consideration of the steps an applicant has taken to improve their language proficiency in support of the proposed research project.

Proposed Regulation: We propose to amend § 663.21(c)(3) to allow awarding full points for this criterion to applicants conducting research projects in any language in which they have proficiency, other than English. We also propose to add to § 663.21(c) a new selection criterion that would take into consideration the steps an applicant takes to develop improved language proficiency in support of the proposed research project. Finally, we propose revising the introductory language of § 663.21(c) to allow

consideration of "one or more" of the listed criteria, thereby giving the Secretary discretion to determine what factors will be considered in reviewing the qualifications of applicants based on that year's priorities.

Reasons: The proposed regulations would bring FRA into line with other comparable foreign language and international area studies grant programs, which generally do not contain an exception or exclusion for native language skills other than English. Additionally, proposed changes to § 663.21(c) should better improve equitable access for applicants demonstrating advanced level proficiency in the language of the country in which they seek to conduct research.

The Department overemphasizes the method of language acquisition over language proficiency. The current regulations also have the consequence of making individuals whose native language matches the host country of research ineligible for language proficiency points under § 663.21. As the ultimate goal of these programs is "promoting modern foreign language training and area training[,]" the Department has determined that the FRA program is better served by selecting among the most linguistically proficient candidates for faculty research, regardless of their method of acquisition of language proficiency.

The proposed addition to § 663.21(c) of a new selection criterion would consider the steps taken by the

applicant to improve proficiency in the language of study and ensure adequate preparation for the proposed research project. The Department believes this criterion will support the FRA program's goal of promoting training "in United States schools, colleges, and universities" by allowing the applicant to demonstrate the steps taken to improve their language proficiency in a domestic academic setting.

Finally, we propose providing the Secretary discretion to choose among the regulated selection factors considered when reviewing the qualifications of applicants. This proposal is expected to increase flexibility in implementing the program within the parameters of Departmental program priorities for international and foreign language education set under § 663.21(d). This proposal is generally consistent with the Secretary's authority for all direct grant programs under 34 CFR §75.201 where "in the application package or a notice published in the Federal Register, the Secretary informs applicants of [...] the selection criteria chosen[.]" This change would bring FRA into alignment with other Departmental programs that allow the Secretary to select among the regulated selection criteria when determining which criteria will be used in a particular competition year.



## Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule),

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency,

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof, or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive Order.

This proposed regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed the proposed regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired

behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing the proposed regulations only on a reasoned determination that their benefits justify any associated costs. Based on the analysis that follows, the Department believes that the proposed regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, or Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

## Discussion of Costs and Benefits

The potential costs to applicants, grant recipients, and the Department associated with the proposed regulatory change would be minimal, while there would be greater potential benefits to applicants, grant recipients, and the Department.

We anticipate a minimal increase of 10-15 DDRA and FRA program applications as a result of eliminating the native language proficiency exclusion and foresee minimal impact to the Department's time and cost for reviewing these additional applications.

Over the last five years, the amount of funding for the DDRA program has ranged from approximately \$3.5 to 5 million, with an average of 200 grant applications received per year, and an average of fifty percent of applications ultimately receiving grant awards. The number of applications and awards has remained relatively steady across the last five years. The Department expects an increase of 10-15 applications per year based on the number of applicants that have applied to study a geographic area that shares their native language skills in recent years.

An increase in the number of applicants or awards granted could result in minimal additional costs to Department in securing readers to review applications. The Department pays readers \$1,200 to review applications and the number of applications per reader ranges from 15 to a

maximum of 22 applications. An increase in 10-15 applications could increase cost by an additional \$1,200 to secure an additional reader. However, the number of applications for the DDRA program has declined over the last several years from a height of almost 250 to a low of just over 150 in 2022. As a result, an increase in immediate applications would not result in any overall comparative additional costs, as a nominal increase in applications would restore DDRA to the average amount of applications received in prior years. We anticipate no additional costs to grant recipients, as we would continue to pay for grant activities with program funds.

Last fiscal year (FY) 2022, the Department conducted an FRA competition and made fellowship awards to 22 recipients totaling \$1,265,000. The FY 2022 competition was the first competition in over a decade for the FRA program. The previous Fulbright-Hays appropriation had decreased from \$15.6 million in FY 2010 to \$7.5 million in FY 2011, and the nearly fifty percent decrease in available funds made it impossible to conduct competitions and make awards under all four Fulbright-Hays programs. As a result, the FRA program was suspended from 2011 to 2021. The funding level for the Fulbright-Hays programs had remained relatively level at \$7.1 million for the past several years. In FY 2022, we received a modest increase to \$8.1

million, which enabled us to re-activate the FRA program. However, we will not conduct the FRA competition in FY 2023. We do anticipate conducting another FRA competition in FY 2024, contingent upon available funds. Given that the FRA competition has only been conducted once in the last decade, trends in those program applications cannot be measured.

The benefits of amending these regulations include (1) better aligning DDRA and FRA applicant qualifications with other comparable foreign language and international area student grant programs to focus on language proficiency and (2) increasing equitable access to research abroad for those demonstrating language proficiency in the language of the countries in which their doctoral-level or faculty research study will occur, regardless of the applicant's native language. In addition, we expect that this flexibility may result in more applications from applicants speaking a wider variety of native language, as well as more applications recommended for funding.

The proposed regulations also would more fully account for proficiency by adding a new selection criterion that considers an applicant's academic record and the steps taken by the applicant to improve proficiency in the language of study and ensure adequate preparation for the proposed research project. The Department believes this criterion will support the DDRA and FRA programmatic goal

of promoting training "in United States schools, colleges, and universities" by allowing the applicant to demonstrate the steps taken to improve their language proficiency in an academic setting. We do not anticipate any changes in the number of applications received as a result of this change, nor do we anticipate any costs to grant recipients. As a result, we do not anticipate any burden cost with the addition of this particular criterion.

Finally, providing the Secretary discretion to determine the factors that will be considered when reviewing the qualifications of applicants would increase flexibility to implement the program within statutory requirements while adapting to changing Departmental priorities for international and foreign language education. This change would bring DDRA and FRA into alignment with other Departmental programs that allow the Secretary to select among the regulated selection criteria when determining which criteria will be emphasized in a particular competition year. We do not anticipate any cost to the government for this change, beyond nominal costs associated with updating the application package. We do not anticipate any changes in the number of applications received as a result of this change, nor do we anticipate any costs to grant recipients. As a result, we do not anticipate any burden cost with the addition of this flexibility regarding the selection criteria.

Elsewhere in this section under Paperwork Reduction Act of 1995, we identify and explain burdens specifically associated with information collection requirements.

#### Alternatives Considered

In addition to allowing native speakers to receive points based on sections 662.21(c)(3) and 663.21(c)(3), we considered allowing English as the language for the country of research, which is currently restricted, but believe that maintaining the requirement that applicants as part of the application package demonstrate proficiency in a language "other than English" more appropriately meets the statutory goal of "promoting modern foreign language training and area studies in United States schools[.]" 22 U.S.C. 2452(b)(6). We also considered continuing to solely provide points for language proficiency without consideration of additional steps taken to improve proficiency. However, the inclusion of a criterion that considers steps taken to improve proficiency better meets the statutory goal of promoting training "in United States schools, colleges, and universities" by allowing the applicant to demonstrate the steps taken to improve their language proficiency in a domestic academic setting. We believe that replacing the exclusion for native language skills other than English with a focus on both an applicant's current foreign language skills and efforts to master the language of study will be more effective in



increasing the capabilities and diversity of applicants and participants, while remaining consistent with the statutory goals of these programs.

#### Clarity of the Regulation

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency to write regulations that are easy to understand. The Secretary invites comments on how to make the proposed regulation easier to understand, including answers to questions such as the following:

- (a) Are the requirements in the proposed regulation clearly stated?
- (b) Does the proposed regulation contain technical terms or other wording that interferes with its clarity?
- (c) Does the format of the proposed regulation (use of headings, paragraphing, etc.) aid or reduce its clarity?
- (d) Would the proposed regulation be easier to understand if we divided it into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 106.9 Dissemination of policy.)
- (e) Could the description of the proposed regulation in the SUPPLEMENTARY INFORMATION section of this

preamble be more helpful in making the proposed regulation easier to understand? If so, how?

(f) What else could we do to make the proposed regulation easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the ADDRESSES section.

#### Regulatory Flexibility Act Certification

The Secretary certifies that the proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by the proposed regulations are institutions of higher education (IHEs) that would submit applications to the Department under this program. The proposed regulations would not have a significant economic impact on the small entities affected because they would not impose excessive regulatory burdens or require unnecessary Federal supervision. The proposed regulations would impose minimal requirements to ensure the proper expenditure of program funds. We invite the public to comment on our certification that these regulations would not have a significant economic impact on a substantial number of small entities.

The Small Business Administration (SBA) defines "small institution" using data on revenue, market dominance, tax filing status, governing body, and population. Most

entities to which the Office of Postsecondary Education's (OPE) regulations apply are postsecondary institutions; however, many of these institutions do not report such data to the Department. As a result, the Department defines "small entities" by reference to enrollment,<sup>1</sup> to allow meaningful comparison of regulatory impact across all types of higher education institutions.<sup>2</sup>

Table [1]. SMALL INSTITUTIONS UNDER ENROLLMENT-BASED DEFINITION

Level	Type	Small	Total	Percent
2-year.....	Public.....	328	1182	27.75
2-year.....	Private.....	182	199	91.46
2-year.....	Proprietary.....	1777	1952	91.03
4-year.....	Public.....	56	747	7.50
4-year.....	Private.....	789	1602	49.25
4-year.....	Proprietary.....	249	331	75.23
Total.....	.....	3381	6013	56.23

Source: 2018-19 data reported to the Department.

### Paperwork Reduction Act of 1995

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<sup>1</sup> Two-year postsecondary educational institutions with enrollment of less than 500 full-time equivalent (FTE) and four-year postsecondary educational institutions with enrollment of less than 1,000 FTE.

<sup>2</sup> In some prior regulations, the Department categorized small businesses based on tax status. Those regulations defined "non-profit organizations" as "small organizations" if they were independently owned and operated and not dominant in their field of operation, or as "small entities" if they were institutions controlled by governmental entities with populations below 50,000. Those definitions resulted in the categorization of all private nonprofit organization as small and no public institutions as small. Under the previous definition, proprietary institutions were considered small if they were independently owned and operated and not dominant in their field of operation with total annual revenue below \$7,000,000. Using FY 2017 Integrated Postsecondary Education Data System (IPEDS) finance data for proprietary institutions, 50 percent of 4-year and 90 percent of 2-year or less proprietary institutions would be considered small. By contrast, an enrollment-based definition applies the same metric to all types of institutions, allowing consistent comparison across all types.

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Sections 662.21(c)(3) and 663.21(c)(3) of the proposed regulations contain information collection requirements. Under the PRA the Department has submitted a copy of these sections to OMB for its review.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

In the final regulations, we will display the control number assigned by OMB to any information collection requirements proposed in this NPRM and adopted in the final regulations.

The information collection that would be impacted by these proposed regulatory changes is the Application for the DDRA and FRA Programs (1840-0005). Under the DDRA and FRA programs, individual scholars apply through eligible institutions for an institutional grant to support the research fellowship. These institutions administer the program, in cooperation with the Department, pursuant to sections 102(b)(6) and 104(e)(1) of the Mutual Educational and Cultural Exchange Act of 1961, 34 CFR parts 662 and 663, the Policy Statements of the J. William Fulbright Foreign Scholarship Board (FSB), and the Education Department General Administrative Regulations (EDGAR).

The data requested are used by the Department, U.S. foreign language and area studies specialists, the Department of State, U.S. Embassies, Fulbright Commissions, host country officials and scholars, and the FSB in determining the academic qualifications and suitability of the individual applicant, potential political sensitivity and feasibility of the project in the host country, research climate, and adequacy of the proposed budget.

Grants under these programs are awarded annually.

<b>Program</b>	<b>Number of Respondents</b>	<b>Average Burden Hours per Response</b>	<b>Total Burden Hours</b>	<b>Estimated Respondent Average Hourly Wage</b>	<b>Total Annual Costs (hourly wage x total burden hours)</b>
DDRA Student Respondent	325	25	8125	\$0	\$0
DDRA Institution Project Director	50	25	1250	\$47.20	\$59,000
<b>FRA Faculty Respondent</b>	<b>70</b>	<b>25</b>	<b>1750</b>	<b>\$36.33</b>	<b>\$63,578</b>
<b>FRA Institution Project Director</b>	<b>50</b>	<b>15</b>	<b>750</b>	<b>\$47.20</b>	<b>\$35,400</b>
<b>Annualized Totals</b>	<b>495</b>		<b>11875</b>		<b>\$157,978</b>

The hour burden of individual respondents is estimated at an average of 25 hours for each student. The cost burden for student applicants is zero. We estimate that the changes to the regulations may result in a small increase in the number of DDRA student respondents from 310 to 325. When multiplied by 25 hours, this results in an increase in DDRA student burden hours from 7750 to 8125.

The hour burden of the 50 institutional project directors is estimated at 25 hours for each DDRA application. The cost burden for institutional DDRA applicants is \$59,000. These estimates are based on feedback from DDRA respondents during the last three years.

The hour burden of individual respondents is estimated at an average of 25 hours for each faculty member. The cost burden for faculty applicants is \$63,578. The hour burden of the 50 institutional project directors is estimated at 15 hours for each FRA application. The cost burden for institutional FRA applicants is \$35,000. These estimates are based on feedback from FRA respondents during the last three years.

These estimates incorporate the completion of the following tasks:

1. Register in the G5 e-Application system (project director)
2. Complete official forms (student/faculty and project director)
3. Develop the application narrative and budget (student/faculty)
4. Screen individual completed applications (project director)
5. Transmit completed individual applications to US/ED in a single submission via G5 (project director)

The difference between the hour burdens for the DDRA and FRA project directors is due to the fact that the FRA program is smaller and has fewer applicants. DDRA project directors are generally processing applications for multiple students, whereas FRA project directors are generally processing an application for one faculty member.

The data in the table is an estimate of the time it takes for both institutional project directors and individual student and faculty respondents to complete these tasks.

The DDRA and FRA application (1840-0005) would be affected by the regulatory changes in the following ways:

- We would change the application package to eliminate the native language proficiency exclusion.
- We would include additional language in the DDRA and FRA selection criteria (under §§ 662.21(c)(3) and 663.21(c)(3)) which would require minimal changes on the technical review forms.

We estimate that the changes to the regulations may result in a small increase in the number of DDRA student respondents from 310 to 325. When multiplied by 25 hours, this results in an increase in DDRA student burden hours from 7750 to 8125. We estimate that costs would increase for individuals or institutions as a result of these minor changes. The annual burden hours for institutions remains at 2000, and the annual burden hours for individuals increases to 9875, for a total of 11875 annual burden hours



under OMB Control Number 1840-0005. The annual cost burden remains at \$157,978.

Regulatory Section	Information Collection	OMB Control No. and Estimated Burden
34 CFR § 662.21(c) (3) and 34 CFR § 663.21(c) (3)	These proposed regulatory provisions would require changing the application package to eliminate the native language proficiency exclusion.	1840-0005. The number of respondents and the number of annual burden hours would increase to 495 and 11,875 respectively, and the annual burden costs would remain the same at \$157,978.
34 CFR § 662.21(c) (3) and 34 CFR § 663.21(c) (3)	These proposed regulatory provisions would require the inclusion of additional language in the DDRA and FRA selection criteria to take into consideration steps an applicant has taken to improve their language proficiency.	1840-0005. The number of respondents and the number of annual burden hours would increase to 495 and 11,875 respectively, and the annual burden costs would remain the same at \$157,978.

We have prepared Information Collection Requests for these information collection requirements. If you wish to review and comment on the Information Collection Requests, please follow the instructions in the ADDRESSES section of this notification. Note: The Office of Information and Regulatory Affairs in OMB and the Department review all comments posted at [www.regulations.gov](http://www.regulations.gov).

We consider your comments on this proposed collection of information in--

- o Deciding whether the proposed collection is necessary for the proper performance of our

functions, including whether the information will have practical use;

- o Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;
- o Enhancing the quality, usefulness, and clarity of the information we collect; and
- o Minimizing the burden on those who must respond.

This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This does not affect the deadline for your comments to us on the proposed regulations. If your comments relate to the Information Collection Requests for these proposed regulations, please specify the Docket ID number and indicate ``Information Collection Comments`` on the top of your comments.

Intergovernmental Review

The proposed regulations are not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

#### Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act (GEPA), 20 U.S.C. 1221e-4, the Secretary particularly requests comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

#### Federalism

Executive Order 13132 requires us to ensure meaningful and timely input by State and local elected officials in the development of regulatory policies that have federalism implications. "Federalism implications" means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The proposed regulations do not have federalism implications.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an

MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available at no cost to the user at the site.

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#### List of Subjects

##### 34 CFR Part 662

Colleges and universities, Education, Educational research, Educational study programs, Grant programs-education, Scholarships and fellowships.

##### 34 CFR Part 663

Colleges and universities, Education, Educational research, Educational study programs, Grant programs-education, Scholarships and fellowships, Teachers.

**Nasser H. Paydar,**  
*Assistant Secretary for*  
*Postsecondary Education.*

For the reasons discussed in the preamble, the Secretary of Education proposes to amend parts 662 and 663 of title 34 of the Code of Federal Regulations as follows:

34 CFR PART 662—FULBRIGHT-HAYS DOCTORAL DISSERTATION  
RESEARCH ABROAD FELLOWSHIP PROGRAM

1. The authority citation for part 662 continues to read as follows:

Authority: Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), 22 U.S.C. 2452(b)(6), unless otherwise noted.

2. Amend § 662.21 by:

- a. Revising paragraphs (c) introductory text and (c)(3);
- b. Redesignating paragraph (c)(4) as (c)(5); and
- c. Adding a new paragraph (c)(4).

The revisions and addition read as follows:

**§ 662.21. What criteria does the Secretary use to evaluate an application for a fellowship?**

\* \* \* \* \*

(c) Qualifications of the applicant. The Secretary reviews each application to determine the qualifications of the applicant. In coordination with any priorities established under paragraph (d) of this section, the Secretary considers one or more of the following-

\* \* \* \* \*

(3) The applicant's proficiency in one or more of the languages (other than English) of the host country or countries of research;

(4) The extent to which the applicant's academic record demonstrates steps taken to further improve advanced language proficiency to overcome any anticipated language barriers relative to the proposed research project;

(5) The applicant's ability to conduct research in a foreign cultural context, as evidenced by the applicant's references or previous overseas experience, or both.

\* \* \* \* \*

34 CFR PART 663—FULBRIGHT-HAYS FACULTY RESEARCH ABROAD  
FELLOWSHIP PROGRAM

3. The authority citation for part 663 continues to read as follows:

**Authority:** Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), 22 U.S.C. 2452(b)(6), unless otherwise noted.

4. Amend § 663.21 by:

- a. Revising paragraphs (c) introductory text and (c)(3);
- b. Redesignating paragraph (c)(4) as (c)(5); and
- c. Adding a new paragraph (c)(4).

The revisions and addition read as follows:

**§ 663.21. What criteria does the Secretary use to evaluate an application for a fellowship?**

\* \* \* \* \*

(c) Qualifications of the applicant. The Secretary reviews each application to determine the qualifications of the applicant. In coordination with any priorities established under paragraph (d) of this section, the Secretary considers one or more of the following -

\* \* \* \* \*

(3) The applicant's proficiency in one or more of the languages (other than English) of the host country or countries of research;

(4) The extent to which the applicant's academic record demonstrates steps taken to further improve advanced language proficiency to overcome any anticipated language barriers relative to the proposed research project;

(5) The applicant's ability to conduct research in a foreign cultural context, as evidenced by the applicant's previous overseas experience, or documentation provided by the sponsoring institution, or both.

\* \* \* \* \*